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Dated: July 15, 2004

Signature: Cecilia Huerta

(Cecilia Huerta)

Docket No.: 350292000500  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re Patent Application of:  
Kouji MATSUSHIMA and Kenji YOKOI

Application No.: 09/202,791

Art Unit: 1651

Int'l Filing Date: June 26, 1997

Examiner: D. Ware

For: THERAPEUTIC AGENT FOR ACUTE LUNG  
INJURY RESULTING FROM INDIRECT  
CAUSES COMPRISING ANTI-IL-8  
ANTIBODY AS ACTIVE INGREDIENT

**REQUEST TO WITHDRAW A HOLDING OF AN IMPROPER ABANDONMENT**

MS RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in response to an Office Communication dated June 29, 2004, concerning an appeal for the above captioned matter. The Office indicated in part 3 of the Communication that the appeal was dismissed and in part 4 of the Communication that the application is abandoned. This holding of abandonment is improper because the Applicants filed a Notice of Appeal on December 18, 2003, which was received by the Office on December 22, 2003. Accordingly the Applicants had until July 22, 2004 to file documents in response to the Notice of Appeal with payment of a five month extension of time. As a petition for a five month extension of time is included with the concurrently filed Request for Continued Examination (RCE), this RCE file is timely filed.



The Applicants appreciate the time Examiner extended to the undersigned representative in an informal telephone conference on July 13, 2004, and explaining that the holding of abandonment was improper. The Examiner instructed the undersigned representative to file this request with the RCE and stated no petition was required. The Examiner also instructed the undersigned representative to include a copy of the Notice of Appeal filed on December 18, 2003, which is attached herewith.

Accordingly it is respectfully requested that the Office withdraw the improper holding of abandonment.

Dated: July 15, 2004

Respectfully submitted,

By 

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